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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

RICHARD KADREY, et al.,

Individual and Representative Plaintiffs,

v.

META PLATFORMS, INC.,

Defendant.

Case No. 3:23-cv-03417-VC

**JOINT STATUS REPORT PER ECF NO.
231**

Pursuant to the Court's Order, ECF No. 231, the parties respectfully submit this status report.

Meta's witnesses

<u>Deponent</u>	<u>Relevant Date</u>
<i>Depositions Taken</i>	
1. Melanie Kambadur	Completed
2. Ahmad Al-Dahle	Completed
3. Eleonora Presani	Completed
4. Todor Mihaylov	Completed
5. Chaya Nayak	Completed
6. Joelle Pineau	Completed
7. Sergey Edunov	Completed
8. Amanda Kallet	Completed
9. Angela Fan	Completed
10. Alex Boesenberg	Completed
11. Mike Clark	Completed (30(b)(1) and 30(b)(6))
12. Yann LeCun	Completed
13. Amrish Acharya	Completed (30(b)(1) and 30(b)(6))
14. Chris Cox	Completed
<i>Depositions Scheduled</i>	
15. Logan Kerr	5.5 hours on the record on Nov. 26, deposition continued pending resolution of asserted document privilege issue by Meta; parties are conferring.
16. Hugo Touvron	Dec. 3
17. Sy Choudhury	Dec. 5
18. Thomas Scialom	Dec. 5
19. Nikolay Bashlykov	Dec. 5-6 (30(b)(1)) and 6 (30(b)(6)); the parties are conferring over Plaintiffs' request on Dec. 2 for an additional hour of testimony by Mr. Bashlykov.
20. Eugene Nho	Dec. 6
21. Sean Bell	Dec. 11
22. Steven Roller	Dec. 11
23. Arun Rao	Dec. 13

24. Mark Zuckerberg	Dec. 17 (<i>see</i> ECF No. 277); the parties are continuing to discuss logistics for the location of Mr. Zuckerberg's deposition.
25. Meta's 30(b)(6) Deposition	Except as noted, Meta has offered its 30(b)(6) designees for deposition on the same date as their respective 30(b)(1) depositions.
<i>Depositions To Be Scheduled</i>	
26. David Esiobu (as replacement for Susan Zhang, whom Court approved as former employee subpoena recipient via Dkt. 252)	<p><u>Plaintiffs' Position:</u> Plaintiffs have been unable to serve Ms. Zhang after several attempts. Plaintiffs requested availability for current Meta employee Mr. Esiobu as a replacement on November 27. Meta's counsel have told Plaintiffs they will provide dates for deposing Mr. Esiobu only if Plaintiffs withdraw any timeliness objection to their non-party subpoena of Daniel Sterling, which Meta served on November 29, 2024. Plaintiffs seek only to replace deposition of a non-party (Ms. Zhang) with a Meta employee (Mr. Esiobu)—there is no extra burden on Meta. See further points on untimeliness of the subpoena of Mr. Sterling below. Plaintiffs reserve their right to serve and depose Ms. Zhang in the event they do not depose Mr. Esiobu. Plaintiffs reject Meta's characterization of Mr. Sterling and dispute that they have taken an inconsistent position. Ms. Zhang's deposition was timely noticed and the Court ordered production of her contact information. Plaintiffs seek a workaround given difficulty in serving her.</p> <p><u>Meta's Position:</u> On November 27, Plaintiffs newly requested the deposition of Meta engineer Mr. David Esiobu, replacing their request for a deposition of Ms. Susan Zhang (a third party), while reserving any rights to depose her. The November 27 email request was the first time Plaintiffs had suggested any interest in deposing Mr. Esiobu. Despite the lateness of Plaintiffs' request, and the burden on Meta to prepare a new party witness to testify on short notice, Meta expressed openness to make Mr. Esiobu available for deposition on Friday, December 13 at Cooley's Seattle office. However, Plaintiffs position on Mr. Esiobu—a witness whom Meta has the burden of preparing and defending—is wholly inconsistent with their objection to Meta's notice of deposition of Mr. Daniel Sterling, Plaintiff Sarah Silverman's ghost writer. <i>See</i> below. Plaintiffs cannot have it both ways.</p>

Plaintiffs' witnesses

<u>Deponent</u>	<u>Relevant Date</u>
<i>Depositions Taken</i>	
1. David Henry Hwang	Completed
2. Christopher Golden	Completed
3. Laura Lippman	Completed
4. Lysa TerKeurst	Completed

5. Andrew Greer	Completed
6. Richard Kadrey	Completed
7. Jacqueline Woodson	Completed
8. Sarah Silverman	Completed
9. Junot Díaz	Completed
10. Ta-Nehisi Coates	Completed
<i>Depositions Scheduled</i>	
11. Christopher Farnsworth	Dec. 4
12. Matthew Klam	Dec. 10
13. Rachel Louise Snyder	Dec. 11
14. Daniel Sterling	<p><u>Plaintiffs’ Position:</u> Meta had never identified Mr. Sterling or any other “placeholder” non-party until November 29. Mr. Sterling is not Ms. Silverman’s “ghost writer,” and in any event Meta has raised nothing but unsupported speculation suggesting that Mr. Sterling’s collaboration with her undermines (or even could undermine) her copyright claim. Further, Meta’s subpoena of Mr. Sterling is untimely because (1) it violates the Court’s October 15 order (Dkt. 231) (mandating that the parties submit weekly status reports detailing depositions yet to be scheduled and noting that the parties “are late in fact discovery, and the parties are expected to know who they want to depose[.]”), and (2) Meta has known about his collaboration agreement with Plaintiff Sarah Silverman since it was produced almost seven months ago on May 16, 2024, and certainly since Ms. Silverman’s deposition on October 8, 2024. If Meta does not withdraw its untimely subpoena, Plaintiffs will file a motion to quash it. Meta improperly raises for the first time in this report a request that Plaintiffs confirm who represents Mr. Sterling and that Plaintiffs’ counsel accept service on his behalf. Plaintiffs do not represent Mr. Sterling at this time and have no knowledge of attempts to serve Mr. Sterling (much less his purported evasion of service). Plaintiffs will address these newly-raised issues outside the status report.</p> <p><u>Meta’s Position:</u> Ms. Silverman recently produced a number of documents—long <i>after</i> her deposition—indicating that Mr. Sterling is the actual author of much, if not all, of Ms. Silverman’s alleged copyrighted book at issue, contrary to Ms. Silverman’s deposition testimony and sworn interrogatory responses. Meta is allowed to take, and has not exhausted, its allotted depositions. As such, Meta should be able to depose Mr. Sterling or his holding company (through which he provided writing services to Ms. Silverman and received payment), to understand his role in the creation of this at-issue work and Ms. Silverman’s purported copyright ownership, representations to the U.S. Copyright Office, and her standing to pursue her claims. Meta could not have taken Mr. Sterling’s deposition sooner,</p>

	<p>because Ms. Silverman did not produce relevant documents until weeks after her deposition.</p> <p>Relatedly, it appears that Mr. Sterling is actively evading service from the process server. Accordingly, Meta asks the Court to have Plaintiffs' counsel confirm whether they represent Mr. Sterling or his holding company and agree to immediately accept service without further delay so that Meta can take the deposition on December 13.</p> <p>Finally, Plaintiffs argument that Meta's deposition subpoena is untimely is without merit. The prior disputes addressed by this Court and Judge Chhabria over third party subpoenas only concerned <i>document</i> subpoenas. Neither party has argued that deposition subpoenas are "written discovery" under the Amended Case Scheduling Order and there is no basis to do so.</p>
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Dated: December 3, 2024

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ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)

I, Maxwell V. Pritt, attest that concurrence in the filing of this document has been obtained from the other signatories. I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of December, 2024, at San Francisco, California.

By: /s/Maxwell V. Pritt